

SUBSTITUTE FOR
SENATE BILL NO. 174

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding part 54C.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 54C. TOXIC SUBSTANCES IN CHILDREN'S PRODUCTS

2 SEC. 5491. AS USED IN THIS PART:

3 (A) "CHILD CARE ARTICLE" MEANS A PRODUCT DESIGNED OR INTENDED
4 BY THE MANUFACTURER TO FACILITATE THE SLEEP, RELAXATION, OR FEEDING
5 OF CHILDREN OR TO HELP CHILDREN WITH SUCKING OR TEETHING.

6 (B) "CHILDREN" MEANS INDIVIDUALS WHO ARE 7 YEARS OLD OR
7 YOUNGER.

8 (C) "CONSUMER" MEANS THAT TERM AS USED IN THE CONSUMER PRODUCT
9 SAFETY ACT, 15 USC 2051 TO 2085.

1 (D) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
2 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

3 (E) "TOXIC SUBSTANCE" MEANS A SUBSTANCE THAT CONTAINS LEAD, OR
4 A COATING ON AN ITEM THAT CONTAINS LEAD, SO THAT THE LEAD CONTENT
5 IS MORE THAN 0.06% OF THE TOTAL WEIGHT. TOXIC SUBSTANCE DOES NOT
6 INCLUDE GLASS OR CRYSTAL DECORATIVE COMPONENTS.

7 (F) "TOY" MEANS AN ARTICLE DESIGNED AND MADE FOR THE AMUSEMENT
8 OF A MINOR OR FOR THE MINOR'S USE IN PLAY.

9 SEC. 5492. (1) A PERSON SHALL NOT USE OR APPLY A TOXIC
10 SUBSTANCE IN OR ON ANY TOY OR CHILD CARE ARTICLE IN THIS STATE.

11 (2) A PERSON SHALL NOT SELL, OFFER FOR SALE, OR TRANSFER A TOY
12 OR CHILD CARE ARTICLE IN THIS STATE THAT CONTAINS A TOXIC
13 SUBSTANCE.

14 (3) THIS SECTION DOES NOT APPLY TO THE SALE OF A COLLECTIBLE
15 TOY THAT IS NOT MARKETED TO OR INTENDED TO BE USED BY A MINOR.

16 SEC. 5493. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),
17 A PERSON WHO VIOLATES THIS PART IS SUBJECT TO THE FOLLOWING:

18 (A) IF THE PERSON IS NOT AN INDIVIDUAL CONSUMER AND THE
19 VIOLATION IS THE PERSON'S FIRST OFFENSE UNDER THIS PART, A CIVIL
20 FINE OF NOT MORE THAN \$100.00 PER ITEM NOT TO EXCEED \$5,000.00
21 TOTAL.

22 (B) IF A PERSON IS NOT AN INDIVIDUAL CONSUMER AND THE
23 VIOLATION IS THE PERSON'S SECOND OFFENSE UNDER THIS PART, A CIVIL
24 FINE OF NOT MORE THAN \$500.00 PER ITEM NOT TO EXCEED \$25,000.00
25 TOTAL.

26 (C) IF THE PERSON IS NOT AN INDIVIDUAL CONSUMER AND THE

1 VIOLATION IS THE PERSON'S THIRD OR SUBSEQUENT OFFENSE UNDER THIS
2 PART, A CIVIL FINE OF NOT MORE THAN \$1,000.00 PER ITEM NOT TO
3 EXCEED \$50,000.00 TOTAL.

4 (D) IF A PERSON KNOWINGLY VIOLATES THIS PART AND THE PERSON IS
5 NOT AN INDIVIDUAL CONSUMER, A CIVIL FINE EQUAL TO 3 TIMES THE
6 AMOUNTS IN SUBDIVISION (C).

7 (2) A CIVIL FINE IMPOSED UNDER THIS SECTION SHALL BE WAIVED IF
8 IT IS DETERMINED THAT A PERSON ACTED IN GOOD FAITH TO BE IN
9 COMPLIANCE WITH THIS PART, PURSUED COMPLIANCE WITH DUE DILIGENCE,
10 AND PROMPTLY CORRECTED ANY NONCOMPLIANCE AFTER DISCOVERY OF THE
11 VIOLATION.

12 Enacting section 1. This amendatory act takes effect 90 days
13 after the date it is enacted into law.

14 Enacting section 2. This amendatory act does not take effect
15 unless all of the following bills of the 94th Legislature are
16 enacted into law:

17 (a) House Bill No. 4132.

18 (b) House Bill No. 4399.

19 (c) House Bill No. 4936.